

E-329, 118/SA-89-982 DENYING CHANGE IN ASSIGNED SERVICE AREAS AND OFFICIAL  
ELECTRIC SERVICE AREA MAPS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of the Petition of the Willmar Municipal Utilities Commission to Revise Service Territory Boundaries and Maps to Include Recently Annexed Areas Pursuant to Willmar Municipal Utilities Commission Resolution Numbers 85 and 86

ISSUE DATE: February 20, 1990

DOCKET NO. E-329, 118/SA-89-982

ORDER DENYING CHANGE IN  
ASSIGNED SERVICE AREAS AND  
OFFICIAL ELECTRIC SERVICE AREA  
MAPS

PROCEDURAL HISTORY

On October 25, 1989 the Willmar Municipal Utilities Commission (Willmar or the City) filed a petition to revise the official electric service area maps to include in Willmar's assigned service area three parcels of land annexed by the City between 1985 and 1989. The official service area maps currently show the three parcels to be within the exclusive service area of Kandiyohi Cooperative Electric Power Association (Kandiyohi or the co-op). The City claimed that annexation obligated the municipal utility to provide service, thereby transferring service rights upon annexation.

The co-op and the Department of Public Service opposed granting the relief sought in the petition. Those parties stated that municipal utilities wishing to expand their service areas to include annexed areas receiving service from another utility cannot do so until appropriate compensation to the displaced utility has been determined and paid.

The matter came before the Commission on January 10, 1990.

## FINDINGS AND CONCLUSIONS

The statute governing municipal utilities' acquisitions of other utilities' service territories provides in pertinent part as follows:

. . . whenever a municipality which owns and operates an electric utility (a) extends its corporate boundaries through annexation or consolidation, or (b) determines to extend its service territory within its existing corporate boundaries, the municipality shall thereafter furnish electric service to these areas unless the area is already receiving electric service from an electric utility, in which event, the municipality may purchase the facilities of the electric utility serving the area.

Minn. Stat. § 216B.44 (1988).

The statute is clear on its face that any obligation to serve on the part of the municipal utility arises only if the area is not receiving service from another utility. There is no question about the fact that the three parcels at issue are all receiving service from the co-op. Since the areas are receiving service from another utility, the City has neither an obligation nor a right to provide service.

The statute goes on to provide that municipal utilities may acquire those portions of other utilities' service areas which lie within their corporate boundaries, upon payment of appropriate compensation. If the two utilities are unable to agree on compensation, either utility may petition the Commission to determine appropriate compensation. Service rights do not change hands, however, until that determination has been made:

Until the determination by the commission, the facilities [of the displaced utility] shall remain in place and service to the public shall be maintained by the owner.

Minn. Stat. § 216B.44 (1988).

In short, the City is neither obligated nor entitled to serve the annexed areas in question until compensation has been determined, and the official service area maps should remain unchanged until that time. The Commission will so order.

ORDER

1. The petition by the Willmar Municipal Utilities Commission to revise the official electric service area maps is denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson  
Acting Executive Secretary

(S E A L)